

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Collection Agency License of:

No. 07F-BD020-BNK

3 **MIDLAND CREDIT MANAGEMENT, INC.**

CONSENT ORDER

4 4310 East Broadway Road

5 Phoenix, AZ 85040

6
7 Petitioner.

8 On September 22, 2006, the Arizona Department of Financial Institutions ("Department")
9 issued a Notice of Hearing alleging that Petitioner had violated Arizona law. Wishing to resolve this
10 matter in lieu of an administrative hearing, Petitioner does not contest the following Findings of Fact
11 and Conclusions of Law, and consents to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Petitioner Midland Credit Management, Inc. ("Midland") is a Kansas corporation
14 authorized to transact business in Arizona as a collection agency, license number CA 0905285,
15 within the meaning of A.R.S. §§ 32-1001, *et seq.* The nature of Midland's business is that of a
16 collection agency within the meaning of A.R.S. § 32-1001(2).

17 2. J. Brandon Black is the President of Midland and is authorized to transact business in
18 Arizona as a collection agent within the meaning of A.R.S. §§ 32-1001(2).

19 3. Midland is not exempt from licensure as a collection agency within the meaning of
20 A.R.S. §§ 32-1004.

21 4. The following five (5) consumer complaints examined by the Department revealed
22 that Midland:

23 a. Failed to timely provide records, documents, information, and reports to the
24 Superintendent;

25 i. Complaint #4009446—Skyy L. Bootsma. On or around August 29,
26 2005, the Department received a complaint from Ms. Bootsma. On or
around September 28, 2005, the Department sent a letter to Midland

1 requesting a response to Ms. Bootsma's complaint within ten (10)
2 days. On October 12, 2005, the Department sent a follow-up letter to
3 Midland requesting a response to Ms. Bootsma's complaint. On
4 October 30, 2005, the Department received Midland's response—
5 approximately 30 days after the Department's initial request;

6 ii. Complaint #4009386—Charles M. Kahn. On August 18, 2005, the
7 Department received a complaint from Mr. Kahn. On or around
8 September 15, 2005, the Department sent a letter to Midland
9 requesting a response to Mr. Kahn's complaint within ten (10) days.
10 On October 14, 2005, the Department sent a follow-up letter to
11 Midland requesting a response to Mr. Kahn's complaint. On October
12 30, 2005, the Department received Midland's response—
13 approximately 35 days after the Department's initial request;

14 iii. Complaint #4008957—Diane S. Meyer. On April 29, 2005, the
15 Department received a complaint from Ms. Meyer. On or around June
16 1, 2005, the Department sent a letter to Midland requesting a response
17 to Ms. Meyer's complaint within ten (10) days. On or around August
18 4, 2005, the Department contacted Ms. Rita Melconian, Midland's
19 Senior Compliance Analyst, regarding Midland's failure to respond to
20 Ms. Meyer's complaint. On or about August 8, 2005, the Department
21 received Midland's response—approximately 60 days after the
22 Department's initial request;

23 iv. Complaint #4007897—Marilyn Arce. On July 13, 2004, the
24 Department received a complaint from Ms. Arce. On or around July
25 16, 2004, the Department sent a letter to Midland requesting a
26 response to Ms. Arce's complaint within ten (10) days. On or around

1 August 9, 2004, the Department contacted Mr. Shawn Gylling at
2 Midland and left a telephonic message regarding Midland's failure to
3 respond to Ms. Arce's complaint. Mr. Gylling failed to return the
4 Department's call and request. On August 19, 2004, the Department
5 once again contacted Mr. Gylling at Midland and left a telephonic
6 message to return the Department's call regarding Ms. Arce's
7 complaint and Midland's failure to timely respond. On August 24,
8 2004, the Department received Midland response—approximately 39
9 days after the Department's initial request; and

10 v. Complaint #4006291—James Wesley. On April 7, 2003, the
11 Department received a complaint from Mr. Wesley. On or around
12 April 8, 2003, the Department sent a letter to Midland requesting a
13 response to Mr. Wesley's complaint within ten (10) days. On April
14 21, 2003, the Department sent a follow-up letter to Midland requesting
15 a response to Mr. Wesley's complaint. On April 29, 2003, the
16 Department received Midland's response—approximately 21 days
17 after the Department's initial request.

18 5. In each instance, the Department requested by letter a ten (10) day response time
19 from Petitioner.

20 6. Based upon the above findings, the Department issued and served upon Midland an
21 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease
22 and Desist Order") on August 10, 2006.

23 7. On September 6, 2006, Petitioner filed a Request For Hearing to appeal the Cease and
24 Desist Order.

25 CONCLUSIONS OF LAW

26 1. Pursuant to A.R.S. §§ 32-1001, *et seq.*, the Superintendent has the authority and the

1 duty to regulate all persons engaged in the collection agency business and with the enforcement of
2 statutes, rules, and regulations relating to collection agencies.

3 2. By the conduct, set forth above, Midland violated A.A.C. R20-4-1504(D) by failing
4 to make records available for examination, investigation, or audit in Arizona within three working
5 days after the Superintendent demands the records;

6 3. Pursuant to A.R.S. § 32-1053(3), Petitioner's violation of any applicable, law, rule, or
7 order are grounds for license denial, suspension, or revocation.

8 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
9 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to
10 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
11 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
12 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
13 suspension or revocation of Petitioner's license pursuant to A.R.S. § 32-1053; and (4) an order or
14 any other remedy necessary or proper for the enforcement of statutes and rules regulating collection
15 agencies pursuant to A.R.S. §§ 6-123 and 6-131.

16 ORDER

17 1. Midland shall immediately stop the violations set forth above in the Findings of Fact
18 and Conclusions of Law. Midland shall timely provide appropriate records, documents, information,
19 and reports to the Superintendent.

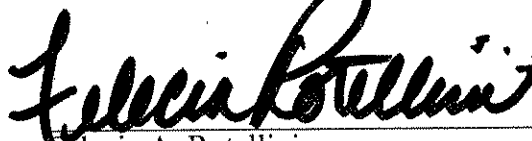
20 2. Midland shall immediately implement and maintain an adequate internal procedure to
21 address and respond to all Arizona consumer complaints within a reasonable time frame. Midland
22 shall immediately provide the Department with a typewritten response letter that includes the general
23 complaint procedures Midland will use henceforward when receiving Arizona consumer complaints
24 from the Department.

25 3. Midland shall immediately pay to the Department a civil money penalty in the
26 amount of **nine thousand dollars (\$9,000.00).**

1 4. The provisions of this Order shall be binding upon Midland, its employees, agents,
2 and other persons participating in the conduct of the affairs of Midland.

3 5. This Order shall become effective upon service, and shall remain effective and
4 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
5 or set aside.

6 SO ORDERED this 3rd day of November, 2006.

7
8 

9 Telesia A. Rotellini
Superintendent of Financial Institutions

10 CONSENT TO ENTRY OF ORDER

11 1. Petitioner acknowledges that it has been served with a copy of the foregoing Findings
12 of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same, is aware
13 of its right to an administrative hearing in this matter, and has waived the same.

14 2. Petitioner admits the jurisdiction of the Superintendent and consent to the entry of the
15 foregoing Findings of Fact, Conclusions of Law, and Order.

16 3. Petitioner states that no promise of any kind or nature has been made to induce it to
17 consent to the entry of this Order, and that it has done so voluntarily.

18 4. Petitioner agrees to cease from engaging in the violative conduct set forth above in
19 the Findings of Fact and Conclusions of Law.

20 5. Petitioner acknowledges that the acceptance of this Agreement by the Superintendent
21 is solely to settle this matter and does not preclude this Department, any other agency or officer of
22 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in
23 the future.

24 6. J. Brandon Black, on behalf of Midland Credit Management, Inc., represents that he
25 is the President, and that, as such, has been authorized by Midland Credit Management, Inc. to
26 consent to the entry of this Order on its behalf.

DATED this 1st day of November, 2006.

ORIGINAL of the foregoing filed this 3rd
day of November, 2006, in the office of:

COPY mailed same date to:

Craig A. Raby, Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

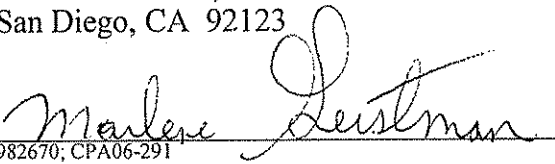
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